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Assistant Commissioner for Patents  
Washington, D.C. 20231

On 11/10/02

TOWNSEND and TOWNSEND and CREW LLP

By: Don Mixon

PATENT  
Attorney Docket No.:20366-077610US  
#5

COPY OF PAPERS  
ORIGINALLY FILED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Richard Cerami, et al.

Application No.: 09/921,283

Filed: August 1, 2001

For: PROACTIVE REPAIR PROCESS  
IN THE XDSL NETWORK(WITH A  
VDSL FOCUS)

Examiner: Unassigned

Art Unit: 2184

DECLARATION OF CHAD S. HILYARD  
IN SUPPORT OF PETITION UNDER 37  
C.F.R. §1.47(a)

**RECEIVED**

MAR 18 2002

OFFICE OF PETITIONS

Assistant Commissioner for Patents  
Washington, D.C. 20231

I, Chad S. Hilyard, am an attorney at Townsend and Townsend and Crew LLP, representing Qwest Communications International Inc. ("Qwest") in the above-referenced patent application along with Brian N. Young ("Brian"). In addition to Brian's efforts, I also have made diligent efforts to contact Mr. Timothy Figueroa, an inventor for the above-referenced case and previously an employee of Qwest.

On or about November 6, 2001, Brian contacted me and asked me to call Mr. Figueroa, because he had not responded to Brian's letter requesting him to review the patent application and execute the declaration and assignment documents.

Between about November 10, 2001 and December 10, 2001, I called Mr. Figueroa at his work phone number (720-535-7700) at least four times and spoke to him at least three times. The first two times I spoke with Mr. Figueroa, he was very evasive. Specifically, he was hesitant to talk to me, but indicated that he had the declaration and assignment documents

at home, and requested that I call him back in a couple of days, which I did. On December 10, 2001, the last time I spoke with Mr. Figueroa, he indicated that he would not sign and return the declaration and assignment documents. Then, he hung-up on me.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the patent application or any patent resulting therefrom, declare that I am authorized to execute this instrument on behalf of applicants; all statements made of my own knowledge are true; and all statements made on information and belief are believed to be true.

Date: 1/9/2002



Chad S. Hilyard

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8th Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300

SF 1306274 v1

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Washington, D.C. 20231

On 11/10/02

TOWNSEND and TOWNSEND and CREW LLP

By: Donald M. Young

**PATENT**  
Attorney Docket No.:20366-077610US

**COPY OF PAPERS  
ORIGINALLY FILED**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Richard Cerami, et al.

Application No.: 09/921,283

Filed: August 1, 2001

For: PROACTIVE REPAIR PROCESS  
IN THE XDSL NETWORK(WITH A  
VDSL FOCUS)

Examiner: Unassigned

Art Unit: 2184

**DECLARATION OF BRIAN N. YOUNG  
IN SUPPORT OF PETITION UNDER 37  
C.F.R. §1.47(a)**

**RECEIVED**

**MAR 18 2002**

**OFFICE OF PETITIONS**

Assistant Commissioner for Patents  
Washington, D.C. 20231

I, Brian N. Young, am an attorney at Townsend and Townsend and Crew LLP, representing Qwest Communications International Inc. ("Qwest") in the above-referenced patent application. I have made diligent efforts to contact Mr. Timothy Figueroa, an inventor for the above-referenced case and previously an employee of Qwest.

On August 1, 2001, the above-referenced patent application was filed by Qwest with missing parts. On September 10, 2001, a Notice to File Missing Parts from the U.S. Patent Office was mailed to our office.

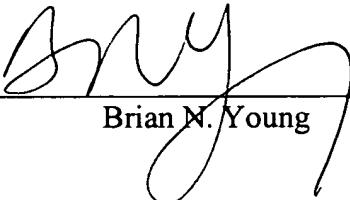
Therefore, I prepared the declaration and assignment documents for the above-referenced patent application and forwarded them to all the inventors (including Mr. Timothy Figueroa), along with the patent application as filed and a cover letter instructing them to review the application and execute the documents on September 27, 2001. A copy of the cover letter is attached as **Exhibit A**, the cover letter shows Mr. Figueroa's last known address,

which is 15231 East Hialeah Place, Aurora, Colorado 80015. A reminder was mailed by Federal Express November 1, 2001. A copy of the Federal Express label receipt is attached hereto as **Exhibit B**.

The Federal Express Package was signed by L. Figueroa on November 2, 2001, we believe Mr. Figueroa received the documents, as shown in the declaration of Chad Hilyard, Mr. Figueroa was contacted at the address and has not signed the declaration and assignment documents.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the patent application or any patent resulting therefrom, declare that I am authorized to execute this instrument on behalf of applicants; all statements made of my own knowledge are true; and all statements made on information and belief are believed to be true.

Date: 1/10/02



Brian N. Young

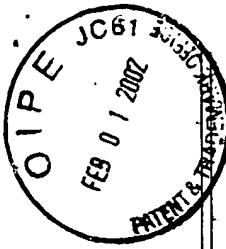
TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8th Floor  
San Francisco, California 94111-3834  
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Fax: 415-576-0300

SF 1306120 v1

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Washington, D.C. 20231

On January 10, 2002

TOWNSEND and TOWNSEND and CREW LLP

By: Don Mixon  
Don Mixon

02/01/02 DABRA: 1 00000135 09921283

01/20/02 130.00 CH

**PATENT**  
Attorney Docket No.: 020366-077610

COPY OF PAPERS  
ORIGINALLY FILED

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Richard Cerami, et al.

Application No.: 09/921,283

Filed: August 1, 2001

For: PROACTIVE REPAIR PROCESS  
IN THE XDSL NETWORK(WITH A  
VDSL FOCUS)

Examiner: Unassigned

Art Unit: 2184

**PETITION UNDER 37 C.F.R. §1.47(a)**

Assistant Commissioner for Patents  
U. S. Patent and Trademark Office  
Washington, D.C. 20231

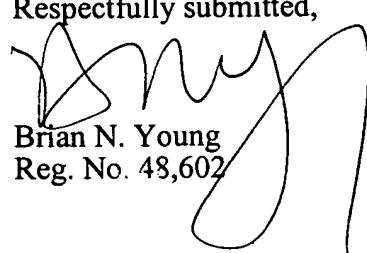
Dear Sir:

Applicants respectfully petition for filing under 1.47(a) for the above-referenced case. Signed Declarations and Assignments are being filed from two of the three joint inventors for this case. The second inventor, Mr. Timothy Figueroa, could not be reached after diligent efforts. The Declarations of Brian N. Young and Chad Hilyard which include proof of the pertinent facts and the last known address of the non-signing inventor, are provided herewith in support of this Petition.

This application is made by the other two inventors on behalf of the non-signing inventor, Mr. Timothy Figueroa. The commissioner is authorized to charge the fee set forth in 37 CFR § 1.17(i) (\$130.00) to the undersigned's Deposit Account No. 20-1430.

Please charge any additional fees or credit overpayment to the above deposit account. This petition is submitted in triplicate.

Respectfully submitted,

  
Brian N. Young  
Reg. No. 48,602

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300

BNY/dxm

SF 1305800 v1

TOWNSEND  
and  
TOWNSEND  
and  
CREW  
LLP



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Tel 303 571-4000  
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Seattle, Washington  
Tel 206 467-9500  
Walnut Creek, California  
Tel 925 472-5000

San Francisco  
Two Embarcadero Center  
8th Floor  
San Francisco  
California 94111-3834  
Tel 415 576-0200  
Fax 415 576-0300  
Direct: 415-273-7512  
bnyoung@townsend.com

September 27, 2001

VIA FEDEX

Richard S. Cerami  
1475 Lawrence Street, #400  
Denver, CO 80202

Timothy Figueroa  
15231 East Hialeah Place  
Aurora, CO 80015

Roxanna Storaasli  
1475 Lawrence Street, 4th Floor  
Denver, CO 80202

**REMINDER** *sent 11/01/01*

Re: US Patent Application No. 09/921,283  
For: PROACTIVE REPAIR PROCESS IN THE xDSL  
NETWORK (WITH A VDSL FOCUS)  
Inventors: Richard S. Cerami, Timothy Figueroa, Roxanna  
Storaasli  
Filed: August 1, 2001  
Our File No.: 020366-077610US

Dear Sirs/Madam:

Enclosed with each letter to the above-referenced inventors is a copy of the subject patent application as filed with the U.S. Patent and Trademark Office on August 1, 2001. All information concerning this application should be kept confidential.

Because this application was filed without a signed Declaration, it is now required that we file the following executed documents with the U.S. Patent Office to complete the filing formalities.

- (1) Declaration to be signed and dated by each inventor.
- (2) Assignment to also be signed and dated by each inventor. Please note that the Assignment should be signed before a notary. On the first page of the Assignment, include the date the Declaration is/was executed.

Once the above documents have been executed, please return all of them to us so that we can file them with the U.S. Patent and Trademark Office. The deadline for filing the formal documents with the USPTO is November 10, 2001.

TOWNSEND  
and  
TOWNSEND  
and  
CREW  
LLP

Richard S. Cerami, et al.  
September 27, 2001  
Page 2

If you have any questions about the completion of these documents, please do not hesitate to contact me at the above telephone number or email address.

Very truly yours,



Brian N. Young

BNY/ls  
Enclosures (3)

SF 1274109 v1

## DECLARATION

As a below named inventor, I declare that:

My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **PROACTIVE REPAIR PROCESS IN THE XDSL NETWORK (WITH A VDSL FOCUS)** the specification of which \_\_\_\_\_ is attached hereto or X was filed on August 1, 2001 as Application No. 09/921,283 and was amended on \_\_\_\_\_ (if applicable).

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56. I claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

## Prior Foreign Application(s)

Country	Application No.	Date of Filing	Priority Claimed Under 35 USC 119

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

Application No.	Filing Date
60/222,791	August 1, 2000

I claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application No.	Date of Filing	Status

Full Name of Inventor 1:	Last Name: <b>CERAMI</b>	First Name: <b>RICHARD</b>	Middle Name or Initial:
Residence & Citizenship:	City: <b>Denver</b>	State/Foreign Country: <b>Colorado</b>	Country of Citizenship: <b>United States</b>
Post Office Address:	Post Office Address: <b>1475 Lawrence Street, #400</b>	City: <b>Denver</b>	State/Country: <b>Colorado</b> Postal Code: <b>80202</b>
Full Name of Inventor 2:	Last Name: <b>FIGUEROA</b>	First Name: <b>TIMOTHY</b>	Middle Name or Initial:
Residence & Citizenship:	City: <b>Aurora</b>	State/Foreign Country: <b>Colorado</b>	Country of Citizenship: <b>United States</b>
Post Office Address:	Post Office Address: <b>15231 East Hialeah Place</b>	City: <b>Aurora</b>	State/Country: <b>Colorado</b> Postal Code: <b>80015</b>

Full Name of Inventor 3:	Last Name: <b>STORAASLI</b>	First Name: <b>ROXANNA</b>	Middle Name or Initial:	
Residence & Citizenship:	City: <b>Denver</b>	State/Foreign Country: <b>Colorado</b>	Country of Citizenship: <b>United States</b>	
Post Office Address:	Post Office Address: <b>1475 Lawrence Street, 4th Floor</b>	City: <b>Denver</b>	State/Country: <b>Colorado</b>	Postal Code: <b>80202</b>

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor 1	Signature of Inventor 2	Signature of Inventor 3
Richard S. Cerami	Timothy Figueroa	Roxanna Storaasli
Date	Date	Date

SF 1274096 v1

**ASSIGNMENT OF PATENT APPLICATION**

**JOINT**

WHEREAS, Richard S. Cerami of 1475 Lawrence Street, #400, Denver, CO 80202; Timothy Figueroa of 15231 East Hialeah Place, Aurora, CO 80015; Roxanna Storaasli of 1475 Lawrence Street, 4th Floor, Denver, CO 80202; hereinafter referred to as "Assignors," are the inventors of the invention described and set forth in the below-identified application for United States Letters Patent:

**Title of Invention:** PROACTIVE REPAIR PROCESS IN THE xDSL NETWORK (WITH A VDSL FOCUS)

**Date(s) of execution of Declaration:**

**Filing Date:** August 1, 2001

**Application No.:** 09/921,283; and

WHEREAS, Qwest Communications International, Inc., a corporation of the state of Delaware, located at 1801 California Street, Suite 3800, Denver, CO, 80202-2658, hereinafter referred to as "ASSIGNEE," is desirous of acquiring an interest in the invention and application and in any U.S. Letters Patent and Registrations which may be granted on the same;

For good and valuable consideration, receipt of which is hereby acknowledged by Assignors, Assignors have assigned, and by these presents do assign to Assignee all right, title and interest in and to the invention and application and to all foreign counterparts (including patent, utility model and industrial designs), and in and to any Letters Patent and Registrations which may hereafter be granted on the same in the United States and all countries throughout the world, and to claim the priority from the application as provided by the Paris Convention. The right, title and interest is to be held and enjoyed by Assignee and Assignee's successors and assigns as fully and exclusively as it would have been held and enjoyed by Assignors had this Assignment not been made, for the full term of any Letters Patent and Registrations which may be granted thereon, or of any division, renewal, continuation in whole or in part, substitution, conversion, reissue, prolongation or extension thereof.

Assignors further agree that they will, without charge to Assignee, but at Assignee's expense, (a) cooperate with Assignee in the prosecution of U.S. Patent applications and foreign counterparts on the invention and any improvements, (b) execute, verify, acknowledge and deliver all such further papers, including patent applications and instruments of transfer, and (c) perform such other acts as Assignee lawfully may request to obtain or maintain Letters Patent and Registrations for the invention and improvements in any and all countries, and to vest title thereto in Assignee, or Assignee's successors and assigns.

Assignors hereby authorize and request Townsend and Townsend and Crew LLP, Two Embarcadero Center, 8<sup>th</sup> Floor, San Francisco, CA 94111-3834, to insert herein above the application number and filing date of said application when known.

IN TESTIMONY WHEREOF, Assignors have signed their names on the dates indicated.

Dated: \_\_\_\_\_

**Richard S. Cerami**

Assignment  
Attorney Docket No.: 020366-077610US  
Page 2

STATE OF )  
              )  
              ) ss.  
COUNTY OF )

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared Richard S. Cerami, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

---

NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Dated: \_\_\_\_\_

**Timothy Figueroa**

STATE OF )  
              )  
              ) ss.  
COUNTY OF )

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared Timothy Figueroa, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

---

NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Dated: \_\_\_\_\_

**Roxanna Storaasli**

STATE OF )  
            ) ss.  
COUNTY OF )

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared Roxanna Storaasli, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
**NOTARY PUBLIC**

My Commission Expires: \_\_\_\_\_

## Federal Express COSMOS Tracking System

DATE: 11/02/01

Tracking #: 475345085436

Service Type: PG

Activity	City	St	Date	Time
Delivered	ENGLEWOOD	CO	11/02	09:55
Placed on Van	ENGLEWOOD	CO	11/02	08:13
Arrived at FedEx Dest Loc	ENGLEWOOD	CO	11/02	07:46
Left FedEx Ramp	DENVER	CO	11/02	06:41
Arrived at FedEx Ramp	DENVER	CO	11/02	05:41
Pkg Left FedEx Sort Facility	OAKLAND	CA	11/02	04:13
Arrived at Sort Facility	OAKLAND	CA	11/01	21:29
Left FedEx Origin Location	SAN FRANCISCO	CA	11/01	19:32
Pickup Exception	SAN FRANCISCO	CA	11/01	15:43

Stat Exception: Pre-routed meter pkg picked up

Delivered to...: Residential

Delivery time.: 09:55

Signed for by.: L.FIGUEROA

Delivery Address: 15231 E HIALEAH PL